

SECOND REGULAR SESSION

# HOUSE BILL NO. 2116

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BLACK (7).

4212H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To amend chapter 191, RSMo, by adding thereto nine new sections relating to the visitation rights of patients.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 191, RSMo, is amended by adding thereto nine new sections, to  
2 be known as sections 191.1400, 191.1405, 191.1410, 191.1415, 191.1420, 191.1425,  
3 191.1430, 191.1435, and 191.1440, to read as follows:

**191.1400. Sections 191.1400 to 191.1440 shall be known and may be cited as the**  
2 **"No Patient Left Alone Act".**

**191.1405. For purposes of sections 191.1400 to 191.1440, the following terms**  
2 **mean:**

3 **(1) "Compassionate care visitation", a visit that is:**

4 **(a) With a resident's friend or family member including, but not limited to, any**  
5 **of the following:**

6 **a. A clergy member;**

7 **b. A lay person offering religious or spiritual support;**

8 **c. Any other person requested by the resident for the purpose of a compassionate**  
9 **care visit; and**

10 **d. A person providing a service requested by the resident, such as a hairdresser**  
11 **or barber; and**

12 **(b) Necessary to meet the physical or mental needs of the resident including, but**  
13 **not limited to:**

14 **a. In end-of-life situations;**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 15           b. For adjustment support after moving to a new facility or environment;  
16           c. For emotional support;  
17           d. For physical support after eating or drinking issues, including weight loss or  
18 dehydration; or  
19           e. For social support;
- 20           (2) "Health care facility", a hospital as defined in section 197.020, an office of a  
21 health care professional, a long-term care facility, or a hospice facility;  
22           (3) "Health care professional", a person who is licensed, certified, or otherwise  
23 authorized by the laws of this state to administer health care in the ordinary course of  
24 the practice of his or her profession;
- 25           (4) "Hospice facility", a facility providing hospice care required to be  
26 certificated under sections 197.250 to 197.280;
- 27           (5) "Long-term care facility":  
28           (a) A nursing home;  
29           (b) A residential care facility as defined in section 198.006;  
30           (c) A post-acute head injury retraining and residential facility;  
31           (d) An intermediate care facility for individuals with developmental disabilities;  
32           (e) An assisted living facility as defined in section 198.006; or  
33           (f) A facility that provides long-term medical or personal care;
- 34           (6) "Support person", an individual other than a spouse or legal guardian who is  
35 designated by the patient to advocate or provide support for the patient.

191.1410. 1. Upon the request of a patient, a hospital, office of a health care  
2 professional, or hospice facility licensed in this state shall allow a patient to designate at  
3 least three support persons in addition to a spouse or legal guardian and shall allow a  
4 spouse or legal guardian and at least one support person to be present with the patient  
5 at all times in the emergency department and during the stay of a patient in the hospital,  
6 office of a health care professional, or hospice facility.

7           2. A health care professional or health care facility shall not discriminate against  
8 a patient by requiring the patient to:

- 9           (1) Execute an advance directive or a physician order for life-sustaining  
10 treatment as a condition of receiving treatment or visitation;  
11           (2) Agree to a do-not-resuscitate or similar order as a condition of receiving  
12 treatment or visitation; or  
13           (3) Have been vaccinated against COVID-19 in order to receive treatment or  
14 visitation.

15           3. This section shall not affect any obligation of a health care professional or  
16 health care facility to:

17           (1) Provide patients with effective communication supports or other reasonable  
18 accommodations in accordance with federal and state laws; or

19           (2) Make exceptions to the visitor policy of a health care facility as a reasonable  
20 accommodation under the Americans with Disabilities Act of 1990, 42 U.S.C. Section  
21 12101 et seq., as existing on January 1, 2021.

          191.1415. 1. (1) A child has the right to have a parent, legal guardian, or person  
2 standing in loco parentis physically present with the child while the child receives care  
3 in a hospital or an office of a health care professional.

4           (2) An adult patient has the right to have a spouse or legal guardian and a  
5 support person physically present with the adult patient while the adult patient receives  
6 care in a hospital or an office of a health care professional.

7           (3) A person with a right to be physically present under subdivision (1) or (2) of  
8 this subsection may leave and return to the hospital or office of a health care  
9 professional that is caring for the patient.

10          2. A hospital or an office of a health care professional shall not:

11           (1) Require a patient to waive the rights specified in subdivisions (1) and (2) of  
12 subsection 1 of this section;

13           (2) Prevent a parent, legal guardian, or person standing in loco parentis of a  
14 child receiving care in a hospital or an office of a health care professional from having  
15 daily physical access to the child at reasonable times; or

16           (3) Separate the parent, legal guardian, or person standing in loco parentis of a  
17 child receiving care in a hospital or an office of a health care professional from the child,  
18 except in cases of suspected abuse or threats of violence or to prevent disruption to the  
19 care of the child.

20          3. A hospital or an office of a health care professional may restrict access of any  
21 person to a patient:

22           (1) At the request of the patient or a law enforcement agency;

23           (2) Due to a court order;

24           (3) To prevent disruption to the care of a patient;

25           (4) If the person has signs and symptoms of a transmissible infection; except  
26 that, the hospital or office of a health care professional shall allow access through  
27 telephone, means of telecommunication, or other means that ensure the protection of the  
28 patient; or

29           (5) If the person is determined to be a danger to the patient or to be contrary to  
30 the welfare of the patient.

          191.1420. A patient who is receiving hospice care or the guardian, spouse, or  
2 support person of a patient who is receiving hospice care may designate additional

3 family members and friends who may be physically present with the patient at  
4 reasonable times.

191.1425. 1. (1) A long-term care facility shall allow compassionate care  
2 visitation as needed by the resident.

3 (2) Personal contact in person with a resident is permitted during a  
4 compassionate care visitation if the long-term care facility protocol is followed.

5 (3) A long-term care facility shall adopt a protocol for personal contact in person  
6 that adheres to appropriate infection prevention guidelines disseminated by the Centers  
7 for Disease Control and Prevention or the Centers for Medicare and Medicaid Services.

8 2. A long-term care facility shall work with residents, families, caregivers,  
9 resident representatives, and medical providers, and may include the office of state  
10 ombudsman for long-term care facility residents established in section 192.2305, to  
11 identify the need for compassionate care visitation using a person-centered approach  
12 that takes the requests of residents into account.

13 3. Within the scope of visitation provided by this section, a long-term care  
14 facility shall permit a resident making decisions regarding end-of-life care to be  
15 accompanied by a family member, guardian, or support person designated by the  
16 resident unless the resident declines or requests to have the discussion outside the  
17 presence of a family member, guardian, or support person.

18 4. (1) A long-term care facility may limit:

19 (a) The number of visitors per resident at one time based on the size of the  
20 building and physical space; and

21 (b) Movement in the long-term care facility, such as requiring the visitor to go  
22 directly to the resident's room or designated visitation area.

23 (2) Visits for residents who share a room shall not be conducted in a resident's  
24 room unless the health status of the resident prevents leaving the room.

25 5. Health care workers who are not employees of the long-term care facility but  
26 provide direct care to a resident in the long-term care facility, such as hospice workers,  
27 emergency medical services personnel, dialysis technicians, laboratory technicians,  
28 radiology technicians, and social workers, shall be permitted into the long-term care  
29 facility if proper infection control protocols are followed.

30 6. A long-term care facility that fails to facilitate compassionate care visitation  
31 without adequate justification related to clinical necessity or resident safety may be  
32 found in violation of 42 CFR 483.10(f)(4), as it existed on January 1, 2021.

33 7. To the extent permitted by state and federal law, the appropriate state agency  
34 or licensing board shall investigate and may penalize a long-term care facility's failure  
35 to comply with this section.

191.1430. 1. Within thirty days of the effective date of this section, the department of health and senior services and the department of social services shall develop informational materials regarding sections 191.1400 to 191.1440.

2. A health care facility shall make the informational materials regarding sections 191.1400 to 191.1440 accessible:

(1) Upon admission or registration; and

(2) On the website of the health care facility.

191.1435. 1. An individual may file a complaint against a health care professional or health care facility for failing to comply with sections 191.1400 to 191.1440 with the appropriate state agency or licensing board, including the department of health and senior services and the department of social services.

2. The appropriate state agency or licensing board shall investigate the complaint and may discipline as appropriate according to licensing rules and regulations.

191.1440. 1. Sections 191.1400 to 191.1440 do not apply to:

(1) Any facility designated by the department of mental health under section 630.505;

(2) A minor who is:

(a) In the custody of the children's division of the department of social services;

or

(b) A suspected victim in a pending child abuse or neglect investigation;

(3) An individual who is in the custody of the department of corrections; or

(4) An individual who is attending a preventive health care office visit during which evidence-based guidelines for preventive care recommend a confidential visit component for youth, as mutually agreed to by the patient and his or her physician.

2. Sections 191.1400 to 191.1440 do not:

(1) Affect the rights of a legal guardian or holder of a power of attorney; or

(2) Waive or change the long-term care facility residents' rights under sections 198.088 and 198.090.

3. The requirements under sections 191.1400 to 191.1440 shall be established as a minimum for visitation in a health care facility but shall not limit visitation at a health care facility to only visitation outlined in sections 191.1400 to 191.1440.

4. The rights specified in sections 191.1400 to 191.1440 shall not be terminated, suspended, or waived by:

(1) A health care facility;

(2) The department of health and senior services;

(3) The department of social services; or

24           **(4) The governor upon declaring an emergency under chapter 44.**

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